

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BERNARD THOMAS,

Plaintiff,

- against -

NEW YORK CITY HEALTH
AND HOSPITAL CORP., et al.,

Defendants.

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DATE FILED: 11/17/05

OPINION AND ORDER

00 Civ. 6760 (JSR) (RLE)

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RONALD L. ELLIS, United States Magistrate Judge:

I. INTRODUCTION

Plaintiff Bernard Thomas brings this *pro se* action under 42 U.S.C. § 1983. This matter was referred to the undersigned on September 29, 2000, for general pretrial purposes. On May 2, 2002, the Honorable Jed S. Rakoff adopted this Court's Report and Recommendation, dated October 12, 2001, and dismissed the case as to all defendants except Corby Reid ("Reid"). On September 20, 2005, Thomas filed a motion to compel Reid to produce documents. *See* Thomas's Motion to Compel ("Thomas's Mot."). For the reasons which follow Thomas's motion to compel is hereby **DENIED**.

II. DISCUSSION

Thomas served Reid with two requests for documents. *See* Discovery Requests, attached to Thomas's Mot. as Exhs. A and C. Since the second request included the documents Thomas sought in the first request, plus additional demands, it supercedes the first request. On January 20, 2005, Reid responded to Thomas's first document request. *See* Reid's letter, attached to Thomas's Mot. as Exh. B. Reid maintains that Thomas "should have had all this information prior to these proceedings," and that documents responsive to certain requests did not exist. *Id.* On September 20, 2005, Thomas submitted a motion to compel Reid to produce the documents responsive to the second

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document request. On October 10, 2005, Reid submitted a sworn declaration in response to Thomas's motion ("Reid's Letter"). On October 25, 2005, Reid submitted a supplemental sworn declaration in further support of his response to Thomas's motion.


Thomas requests documents relating to Reid's contracts and agreements with St. Barnabas Hospital, New York City Health and Hospital Corporation, and the Department of Corrections. *See* Discovery Requests, attached to Thomas's Mot. as Exh. A at ¶¶ 1-4. The documents are not relevant to the claims herein. *See* Report and Recommendation, dated October 12, 2001.

Thomas requests documents pertaining to grievances, and complaints filed against Reid in the course of his employment, and education. *Id.* at ¶¶ 5, 7, and 10-11. He seeks records related to Reid's mental health, and membership in organizations. *Id.* at ¶ 6, and 8. Thomas also requests findings of any agency, organization, or committee with respect to any complaint, or grievance made concerning Reid, and documents related to any civil, juvenile, or criminal charges. *Id.* at ¶¶ 9, 12-13. Reid maintains that records responsive to these requests do not exist. *See* Reid's Letter. Reid has submitted a sworn declaration in support of this contention. Since these records do not exist, Thomas's requests for their production are **DENIED**.

III. CONCLUSION

Thomas's motion to compel is hereby **DENIED**. Documents Thomas sought either have no relevance to the case, or do not exist. Since the discovery deadline has passed, the parties shall submit a joint final pretrial order by **December 31, 2005**, to Judge Rakoff in accordance with his rules. The parties are directed to contact the *Pro Se* Office for assistance.

SO ORDERED this 9th day of November 2005
New York, New York


The Honorable Ronald L. Ellis
United States Magistrate Judge